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Of Attorneys for Defendants City of Ashland,
Tighe O'Meara, Justin McCreadie, and Jane and
John Doe Ashland Police Officers

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

MEDFORD DIVISION

LIESE BEHRINGER,

Plaintiff,

v.

CITY OF ASHLAND; TIGHE
O'MEARA, Chief of City of Ashland
Police Department, in his official capacity;
JUSTIN MCCREADIE, in his official
capacity; JANE AND JOHN DOE
ASHLAND POLICE OFFICERS, in their
official capacities; PROVIDENCE
HEALTH CARE; JANE AND JOHN ROE
PROVIDENCE HEALTH CARE
EMPLOYEES; ABC CORPORATIONS I-
X; BLACK AND WHITE
PARTNERSHIPS I-X; and SOLE
PROPRIETORSHIPS OR TRUSTS I-X,

Defendants.

Case No.: 1:21-cv-01520-CL

**DEFENDANTS CITY OF ASHLAND,
TIGHE O'MEARA, JUSTIN
MCCREADIE, AND JANE AND
JOHN DOE ASHLAND POLICE
OFFICERS' ANSWER TO
PLAINTIFF'S COMPLAINT**

DEMAND FOR JURY TRIAL

REQUEST FOR ATTORNEY FEES

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Defendants City of Ashland, Tighe O'Meara, Justin McCreadie, and Jane and John Doe Ashland Police Officers (collectively "Ashland Defendants"), by and through their attorney of record, admits, denies, and alleges as follows:

1.

Ashland Defendants admit that City of Ashland is a political subdivision of the State of Oregon, whose current Chief of Police is Tighe O'Meara.

2.

Ashland Defendants specifically deny, and pursuant to FRCP 12(f), move this Court to strike paragraphs 1, 2, 3, 4, 5, 6, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 87, 88, 89, 90, 91, 97, 116, 117, 121, 122, 127, and 135 of Plaintiff's Complaint, as the contents of such paragraphs are wholly irrelevant, inadmissible, impertinent, scandalous, impermissible, prejudicial, and superfluous intended only to distract, confuse, and cause prejudice to Ashland Defendants.

3.

FRCP 8(a)(2) provides that a complaint must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Plaintiff's Complaint fails to do so, and sets forth multiple improper evidence, stories, opinions, citations to legal text, legal conclusions, false facts, immaterial facts, and/or irrelevant facts. Therefore, Ashland Defendants are entitled to a dismissal of Plaintiff's Complaint for its failure to comply with FRCP 8(a)(2).

4.

While the information to properly admit or deny the relevant and material factual allegations set forth in Plaintiff's Complaint may be available to Ashland Defendants after full discovery, including depositions, these defendants cannot truthfully respond to such allegations

without full discovery. Therefore, except as specifically admitted herein, Ashland Defendants deny each and every other allegation of “fact” contained in Plaintiff’s Complaint, including Plaintiff’s attempt to editorialize the historical background leading to this incident.

5.

FIRST AFFIRMATIVE DEFENSE

For further answer and first affirmative defense, Ashland Defendants assert that Plaintiff’s Complaint fails to state ultimate facts upon which relief can be granted and fails to state sufficient facts to constitute any claim against Ashland Defendants.

6.

SECOND AFFIRMATIVE DEFENSE

For further answer and second affirmative defense, Ashland Defendants assert that Plaintiff’s Complaint is barred, as Plaintiff lacks the legal standing to bring this cause of action.

7.

THIRD AFFIRMATIVE DEFENSE

For further answer and third affirmative defense, Ashland Defendants assert that City of Ashland and its Chief and Officers are entitled to absolute, discretionary, and/or qualified immunity.

8.

FOURTH AFFIRMATIVE DEFENSE

For further answer and fourth affirmative defense, Ashland Defendants assert that its actions were pursuant to a valid exercise of authority as a law enforcement agency with apparent authority of law. *See e.g.*, ORS 133.235, ORS 133.310, ORS 131.615, and ORS 30.265(f), barring Plaintiff’s claims by privilege.

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9.

FIFTH AFFIRMATIVE DEFENSE

For further answer and fifth affirmative defense, Ashland Defendants assert that Plaintiff's complaint of harm, to the extent such harm is alleged to have occurred, was caused and/or exacerbated by Plaintiff's own conduct.

10.

SIXTH AFFIRMATIVE DEFENSE

For further answer and sixth affirmative defense, Ashland Defendants assert that Plaintiff's complaint of harm, to the extent that such harm is alleged to have occurred, was caused by Plaintiff's criminal conduct.

11.

Ashland Defendants should be awarded their attorney's fees as provided by law, including but not limited to 42 U.S.C. § 1988 and 42 U.S.C. §12205.

WHEREFORE, having fully answered Plaintiff's Complaint, Ashland Defendants pray for judgment in their favor, dismissing Plaintiff's Complaint with prejudice, and awarding Ashland Defendants their costs and disbursements and attorney's fees incurred herein, and for such other relief as the Court deems just and proper.

DATED this 10th day of January, 2021.

FROHNMAYER, DEATHERAGE, JAMIESON,
MOORE, ARMOSINO & McGOVERN, P.C.

s/ Thomas F. Armosino

Thomas F. Armosino, OSB #911954

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Of Attorneys for Defendants City of Ashland,
Tighe O'Meara, Justin McCreadie, and Jane and
John Doe Ashland Police Officers

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **DEFENDANTS CITY OF ASHLAND, TIGUE O'MEARA, JUSTIN MCCREADIE, AND JANE AND JOHN DOE POLICE OFFICERS** upon:

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By automatic electronic transmission via the Court's Case Management/Electronic Case Files system.

DATED this 10th day of January, 2022.

FROHNMAYER, DEATHERAGE, JAMIESON,
MOORE, ARMOSINO & McGOVERN, P.C.

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